

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

06 CR 578 (NG)

-against-

ORDER

**DERREK PANNELL,
DARREN RUCKER and
CIVILIZE AMERNA, also known as “Civ,”**

Defendant.

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GERSHON, United States District Judge:

Defendant Derrek Pannell objects to Magistrate Judge Go’s recommendation, in a Report and Recommendation dated March 26, 2007, that his motion to suppress a gun found in his car at the time of his arrest, made pursuant to a warrant, be denied. He argues that Judge Go, in denying a hearing on the motion, *see* Order of February 9, 2007, misapprehended his argument and accepted the government’s version of the facts as true. In fact, Judge Go’s decisions establish unequivocally that she understood the defendant’s argument and that she found no hearing necessary on the ground that, accepting the *defendant’s* version of the facts as true – that the officers, instead of arresting the defendant at his home, waited for him to enter his car before arresting him so that they would have a pretextual basis for searching the car – there was no illegality in the search. Judge Go’s analysis of the relevant case law is sound. *See Whren v. United States*, 517 U.S. 806 (1996); *United States v. Dhinsa*, 171 F.3d 721 (2d Cir. 1998). The motion to suppress the gun is denied.

SO ORDERED.

/s/

NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
April 9, 2007